

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

MONDRIC BRADLEY,

PLAINTIFF

V.

NO. 4:96CV280-P-D

S.W. PUCKETT, ET AL,

DEFENDANTS

ORDER DENYING PLAINTIFF'S MOTION FOR OUT-OF-TIME APPEAL

Judgment was entered for the defendants on February 4, 2002, following a jury trial in this *pro se* § 1983 conditions of confinement case. Plaintiff filed notice of appeal, and on July 18, 2002, the United States Court of Appeals for the Fifth Circuit dismissed the appeal for want of prosecution. Before the court is a motion filed by the plaintiff on December 28, 2005, asking that he be allowed to file an out-of-time appeal.

28 U.S.C. § 2107(a) requires that notice of appeal in a civil proceeding must be filed within thirty days after the entry of judgment. Clearly plaintiff is far beyond the allowed time. If a motion is filed within 30 days after the expiration of the deadline for filing an appeal, this court may "extend the time for appeal upon a showing of excusable neglect or good cause." 28 U.S.C. § 2107(c). Plaintiff has not shown excusable neglect or good cause, and is also far beyond the time period within which this would merit an out-of-time appeal.

Moreover, the plaintiff has already appealed this matter and his appeal has been denied. This court has no authority to ask the Court of Appeals to once again consider the appeal. Accordingly, the motion to file an out-of-time appeal is **denied**.

SO ORDERED, this the 9th day of January, 2006.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE